



Consultation on proposals to transfer functions from the Human Fertilisation and Embryology Authority and the Human Tissue Authority

Equality Analysis

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First published June 2012

Published to DH website, in electronic PDF format only.

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Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help Department of Health staff members to comply with the general duty.

Please complete the template by following the instructions in each box. Should you have any queries or suggestions on this template, please contact the Equality and Inclusion Team on 020 7972 5936 or aie@dh.gsi.gov.uk

Equality analysis

Title: Consultation on proposals to transfer functions from the Human Fertilisation and Embryology Authority and the Human Tissue Authority

Relevant line in [DH Business Plan 2011-2015](#): 3.5 Reduce bureaucracy (iii) Begin to abolish and transfer functions of ALBs, subject to Parliamentary approval

What are the intended outcomes of this work? *Include outline of objectives and function aims*
Liberating the NHS: Report of the arm's-length bodies review (2010) set out proposals to ensure that the Department of Health's arm's-length body sector remains fit for purpose and affordable. This initial consultation on proposals to transfer functions from the Human Fertilisation and Embryology Authority and the Human Tissue Authority and their abolition is part of the cross-Government agenda to reduce the number and costs of public bodies.

Subject to this consultation we envisage a further consultation that would accompany regulations setting out how this transfer will be effected while ensuring treatment, services and research continue to be provided in a safe and ethical way, and retaining a core of skills and experience in crucial areas, thereby maintaining public confidence.

Organisations taking on the new functions would be subject to equalities duties and could draw on their previous experience.

Who will be affected? *e.g. staff, patients, service users etc*

This consultation sets out where functions might transfer and will impact on the national regulators identified. This primarily includes the HFEA, HTA, Health Research Authority (HRA), Care Quality Commission (CQC). Other organisations would also be affected if Option 2 in the consultation were adopted. These include Arts Council England (ACE), NHS Blood and Transplant (NHSBT), the Medicines and Healthcare products Regulatory Agency (MHRA), the Health and Social Care Information Centre (HSCIC) and the Department of Health.

Were transfers agreed this would impact the identified organisations as well as service providers, people who use services and those involved in undertaking research. We propose to continue to deliver the functions being delivered currently and to maintain the level of expertise. Because of this, we do not envisage this having any impact on the public.

At the point of transition it will be important to ensure that People Transition policies and guidance are developed which protect the general equality duty for staff in the organisations directly affected.

Evidence *The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment. For more information, see the current [DH Transparency Plan](#).*

What evidence have you considered? *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

The consultation proposals have been developed in response to the Department of Health's *Liberating the NHS: Report of the arm's-length bodies review*

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117691

The review found that there was a case for retaining the HFEA and the HTA as separate arm's-length bodies in the short term with a view to examining the practicalities (and legal implications) of how to divide the HFEA and HTA's functions between the HRA, CQC and IC. We have considered these recommendations in formulating the current consultation options (1 and 2).

We have developed the consultation proposals and related consultation impact assessment working with and seeking input from the organisations involved.

Disability *Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.*

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Sex *Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).*

No change. This consultation sets out where functions might transfer and how this will impact

on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Race Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Age Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Gender reassignment (including transgender) Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Sexual orientation Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected. .

Religion or belief *Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.*

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Pregnancy and maternity *Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.*

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Carers *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Other identified groups *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

No change. This consultation sets out where functions might transfer and how this will impact on the national regulators identified. Given the intention to continue the functions and maintain the level of expertise in the receiving organisations this will have little to no effect on the public.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. Were functions to move, it would be important to ensure that People Transition Policies and guidance were developed to protect the general equality duty for staff in the organisations directly affected.

Engagement and involvement

Was this work subject to the requirements of the cross-government [Code of Practice on Consultation](#)? (Y/N)

Yes. This work represents the first step in the consultation process. We are currently consulting on the functions and where they might sit in the future. We would need to introduce further legislation if we were to transfer functions and would consult on the detail.

How have you engaged stakeholders in gathering evidence or testing the evidence available?
We have spoken to regulators and some service providers as well as representative bodies. The transfer of functions has also been debated in Parliament.

How have you engaged stakeholders in testing the policy or programme proposals?
We have spoken to the regulators and some service providers as well as representative bodies. The transfer of functions has also been debated in Parliament.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:
Some initial discussions have taken place to help set out the options for the transfer of functions. This consultation is the first comprehensive exercise in engagement.

Summary of Analysis

Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.

In this consultation we have set out proposals of where functions might transfer and how this will impact on the national regulators identified. We have also considered retaining functions where they are but with the current regulators seeking further efficiencies. Given the intention to continue to perform the current range of functions and maintain the level of expertise in the receiving organisations we do not envisage that this will impact the public. The most likely area where equality impact might be found would be in relation to staff if functions were to transfer - including transfers and redundancies.

DH is working with the arm's-length bodies to ensure that they incorporate equality assurance in their work.

Were the transfers to take place, CQC and the HRA would continue to be subject to equalities duties, following the proposed changes and would be able to draw upon the experience they have already, in meeting their equality duties when preparing to undertake and then delivering the new functions.

Subject to the outcome of this consultation we would undertake a further consultation that would accompany draft legislation setting out the detail of where individual functions might transfer. We propose to undertake a further consultation that will accompany legislation. Were the transition to go ahead, it would be important to ensure that People Transition policies and guidance are developed which protect the general equality duty for staff in the organisations directly affected.

Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.

Eliminate discrimination, harassment and victimisation Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

DH has worked with ALBs to develop an ALB HR framework, which sets out the broad principles within which ALBs are expected to work. A core principle of the Framework is that ALBs ensure staff are treated fairly and with dignity and that redeployment opportunities are maximised and redundancies minimised. The Framework includes a requirement that ALBs carry out equality analyses for all change / transition plans and these should inform the implementation process.

Advance equality of opportunity Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

As above

Promote good relations between groups Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).

As above

What is the overall impact? Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?

As above

Addressing the impact on equalities Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.

As above

Action planning for improvement Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.

This is the first stage of the consultation process on proposals to transfer functions. In addition, the Department has met and will continue to meet with and receive representations from interested parties in developing this policy.

Please give an outline of your next steps based on the challenges and opportunities you have identified. Include here any or all of the following, based on your assessment

- Plans already under way or in development to address the **challenges** and **priorities** identified.
- Arrangements for continued engagement of stakeholders.
- Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)
- Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies
- Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results
- Arrangements for making information accessible to staff, patients, service users and the public
- Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.

DH will work with interested parties during the months of this consultation and beyond to take

forward work in this area. We will use our findings throughout the process to inform our thinking and the Government will publish responses to this initial consultation.

For the record

Name of person who carried out this assessment: Penny Allsop

Date assessment completed: 18 June 2012

Name of responsible Director/Director General: Karen Wheeler

Date assessment was signed: 25 June 2012